



W.P.(MD)No.6159 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2024

CORAM

THE HONOURABLE MRS JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.6159 of 2021

and

W.M.P.(MD).Nos.4785 & 4786 of 2021

Muthulakshmi

... Petitioner

Vs.

1.The Director of Public Health
and Preventive Medicine,
Chennai-6.

2.The Secretary to Government,
Health and Preventive Medicines,
Chennai-9.

3.The Regional Deputy Director / Regional Director
of Public Health and Family Welfare,
Race Course Road,
Trichy-20.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 1st respondent dated 18.09.1990 issued in his reference R.No.113714-37/DA/87/S1 and quash the same and direct the respondent to treat that the charge against the petitioner's husband the deceased Krishnan and her husband was deemed to be in service till the death of her



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husband on 28.10.1992 and to pay all the consequential terminal benefits and pension to the petitioner.

For Petitioner : Mr.K.Safar Badhusha

For Respondent : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order of the first respondent, dated 18.09.1990, issued in his reference in R.No. 113714-37/DA/87/S1 and consequently to direct the respondent to treat the charge against the petitioner's husband viz., deceased Krishnan was deemed to be in service till the death of her husband on 28.10.1992 and to pay all the consequential terminal benefits and pension to the petitioner.

2. Heard Mr.K.Safar Badhusha, learned counsel appearing for the petitioner and Mr.D.Gandhiraj, learned Special Government Pleader appearing for the respondents.

3. The petitioner is the wife of one Late Krishnan, who served as 'Clerk' in the office of the District Health Officer, Nilgiris, with effect from 27.07.1967, which was functioning under the Public Health Department. The



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petitioner's husband was further promoted as 'Assistant' in the year 1972 and further provided with selection grade in the year 1982. The petitioner's husband was placed under suspension by the third respondent with effect from 02.07.1987, following which, disciplinary proceedings was initiated as against him, which culminated in the impugned order of the first respondent vide proceedings in R.No.113714-37/DA/87/S1, dated 18.09.1990, by which the petitioner's husband was removed from service for the proven four counts of charges framed against him. Challenging the same, this Writ Petition came to be filed seeking to quash the impugned order and consequently to treat the charge against the petitioner's husband as being dropped and pay all consequential terminal benefits.

4. The learned counsel appearing for the petitioner, Mr.K.Safar Badhusha, relying upon the Government Order in G.O.(Ms).No.151, Personnel and Administrative Reforms (N) Department, dated 31.10.2018 submitted that, the abatement orders should have been issued by the respondents following the murder of the deceased employee on 03.11.1992 and sanction the terminal benefits to which the deceased employee Krishnan is entitled to in favour of the petitioner and pressed for allowing this Writ Petition.



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WEB COPY 5. Relying upon the counter-affidavit filed by the first respondent, Mr.D.Gandhiraj, learned Special Government Pleader drew my attention to the earlier Writ Petition filed by the petitioner herein before this Court in W.P. (MD).No.17026 of 2012 for the same relief, in which this Court by an order dated 28.06.2019 closed the Writ Petition in view of no instructions from the the petitioner. That apart, pointing out the fact that the impugned order of removal from service with respect to the deceased employee is as early as in the year 1990 and that having slept over the same for more than 22 years, the writ petitioner has approached this Court only in the year 2012 at the first instance. Pursuant to the closure of the same on 28.06.2019, this Writ Petition has been filed by the writ petitioner in the year 2021 and hence, she is not entitled for any relief and pressed for dismissal of this Writ Petition.

6. Even according to the learned counsel for the petitioner, the husband of the petitioner i.e., the deceased employee, viz., Krishnan was removed from service vide the impugned order dated 18.09.1990. Claiming the benefit of the Government Order in G.O.(Ms).No.151, Personnel and Administrative Reforms (N) Department, dated 31.10.2018, the learned counsel for the petitioner pressed for allowing this Writ Petition. However, I am of the considered view



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that the aforesaid Government Order is with respect to those employees who died in the course of departmental disciplinary proceedings, thereby, facilitating the legal heirs to receive the terminal benefits by issuance of abatement orders, however, in the present *lis*, the husband of the petitioner was removed from service as early as in the year 1990 and only after two years of the departmental proceedings on 02.11.1992, he had passed away.

7. In view of the same, the Government Order in G.O.(Ms).No.151, Personnel and Administrative Reforms (N) Department, dated 31.10.2018, is not applicable to the facts and circumstance of this case. That apart, having pursued yet another Writ Petition before this Court in W.P.(MD).No.17026 of 2012 which was not conducted by the writ petitioner diligently which came to be closed later on 28.06.2019, on reporting of no instructions by the learned counsel for the writ petitioner, the petitioner is not entitled to file another writ petition for the same relief. It is needless to state dismissal or removal of a Government servant from service or post entails forfeiture of his past service. Recording the fact that the husband of the petitioner was removed from service as early as in the year 1990, he cannot claim any terminal benefits.



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8. In view of the same, there is no merit in this Writ Petition and accordingly fails and the same stands **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

23.07.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

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L.VICTORIA GOWRI, J.

TSG

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